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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/237,291 01/25/99 YOUNG

J SYS-2068

001095
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HM22/0813

EXAMINER

SCHMIDT, M

ART UNIT	PAPER NUMBER
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1635

DATE MAILED:

08/13/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)	
09/237,291	YOUNG ET AL.	
Examiner	Art Unit	
Mary Schmidt	1635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 July 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 18-20,23-27,31-35,37-44,46 and 47 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 18-20, 23-27, 31-35, 37-44, 46 and 47 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

KATRINA TURNER
PATENT ANALYST

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____.

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 20) Other: _____

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DETAILED ACTION

1. The request filed on July 3, 2001, for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/237,291 is acceptable and a CPA has been established. An action on the CPA follows.
2. Claims 18-20, 23-27, 31-35, 37-44 and 46-47 are pending.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 18-20, 23-27, 31-35, 37-44 and 46-51 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Murray et al. (US Patent 5,665,557), Nakahata (US Patent 5,861,315), Hoffman et al. (US Patent 5,744,361), Fei et al. (US Patent 5,635,387) or Davis et al. (US Patent 5,599,703), in view of Ku et al, Kobayashi et al, Ramsfjell et al (IDS Reference AK), Ohmizono et al, Szilvassy et al, Escary et al., or Bodine et al, and further in view of Tushinski et al (IDS Reference AN), Fletcher et al., Bello-Fernandez et al, Hatzfeld et al., and Hanenberg et al. (Nature Medicine Vol. 2, No. 8) or Henenberg et al. (IDS Reference AR) for the same reasons of record as set forth in the Official Action on the Merits mailed 04/10/00 and 01/04/01.

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5. No new arguments were filed with the CPA filed 07/03/01 addressing the rejections of record.

This is a CPA applicant's earlier Application No. 09/237,291. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Mary M. Schmidt*, whose telephone number is (703) 308-4471.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *John LeGuyader*, may be reached at (703) 308-0447.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Analyst, *Katrina Turner*, whose telephone number is (703) 305-3413.

M. M. Schmidt
August 6, 2001



ANDREW WANG
PRIMARY EXAMINER